

**Paducah Gaseous Diffusion Plant
Citizens Advisory Board
Meeting Minutes
October 18, 2001**

The October 18, 2001, Citizens Advisory Board (CAB) meeting was held at the Environmental Information Center in Paducah, Kentucky, at 6:00 p.m.

Board members present: Mark Donham, Vicki Jones, Merryman Kemp, Rebecca Lambert, Linda Long, Doug Raper, Craig Rhodes, John Russell, Rosa Scott, Jim Smart, Bill Tanner and John Tillson.

Board members absent: Nola Courtney, Judith Duff, Judy Ingram, Ronald Lamb, Leon Owens, and Gregory Waldrop.

***Ex Officio* members and related regulatory agency employees present:** Gaye Brewer, Kentucky Division of Waste Management (KDWM); Tim Kreher, Kentucky Department of Fish and Wildlife Resources (KDFWR).

The Deputy Designated Federal Official present: W. Don Seaborg.

The DOE Federal Coordinator present: Pat Halsey.

DOE-related employees present: Gordon Dover, Jim Ethridge, Bruce Gardner, Jonathan Hanna, Jill Holder, Steve Kay, Glenn Van Sickle, and Stacey Young.

Public: Ruby English, Kristi Hanson, Andrew Smith, and Shirley Speer.

Agenda

Donham called the meeting to order. Kay asked if there were modifications to the proposed agenda. Halsey said there would not be a C-746-U Landfill presentation. **The Board approved the modified agenda by consensus.**

Minutes

Kay asked if there were any proposed modifications to the August draft minutes. Donham said he would like to put off approving the minutes until the next meeting. He said some items were not in the minutes and he did not get the handwritten notes until the previous night. Tillson said he noted that he had been told he would get a copy of requested information at the last meeting and believed it was an action item. He said he would like the minutes to reflect this. Young indicated the requested information was in Tillson's packet. Kay said this could be added to the amended minutes, but approving the minutes was a matter of verifying the record.

Donham said that at the last meeting, Eric Scott, representing Dr. Volpe, talked about the issue of uncertainty and he did not feel this was accurately represented in the draft of the September minutes. He added that a system for the chairman to review the minutes prior to distribution to the full board had been set up when Rhodes was chairman. He wanted to know if the policy had changed.

Kay said the policy was the same. Halsey said she was unaware of the policy. Kay said he believed that it was not in the bylaws, but noted in the minutes. Halsey said that this could be put in the operating procedures. Kay asked if there were any objections to the proposal that the approval of the minutes be held off.

Long objected, saying she did not consider this to be an important issue. Smart said that a long portion was left out of the minutes and he would like this included. A motion was made to suspend approval of the minutes until the next meeting. **The Board approved the motion, with two members opposing and two abstaining.**

Rhodes said there were two incidences when he was the chair that an outside party edited the minutes. This was the purpose of funneling them through the chairperson. Seaborg said this issue will be looked into and asked Donham if this was a question of timeliness. Donham said that last month he didn't receive the minutes at all and that this month they were very late to do a complete review.

Deputy Designated Federal Official's Comments

ACTION ITEMS

Seaborg addressed action items from the September meeting. He said the Web site for the Open Net documents is in the packet and added they appear to be in the Oak Ridge reading room. He said the C-746-U Landfill document that Tillson had requested were in his packet.

ES & H ISSUES

Seaborg said that on October 11, DOE received a Notice of Violations for the alleged improper storage of hazardous waste in three separate DMSAs. Items such as light bulbs, ether, epoxy, and fluorescent light starters were noted.

The water found in the C-410 building has been containerized and is in storage.

In the cylinder yard where the oil tank was discovered in August, workers are close to completing remediation.

Work has been shut down at the concrete yard due to the increased security as a result of the events of September 11.

A pending budget resolution will provide funds to the site through October 23, 2001.

The North-South Diversion Ditch Public Meeting is scheduled for November 1 at 6 p.m. at the EIC. The public comment period ends November 15, 2001.

The EE/CA for D&D operations at C-410 will be out in November. The PRAP for the C-720 groundwater work will be out by the end of the year. Plans are underway to ship much more debris and the aluminum ingots off-site.

Seaborg said they should soon receive a formal response regarding the recommendation status for the scrap metal PEIS hearing.

EPA, DOE and the State are in discussion on the D1 EE/CA of the site-wide sediment control. The draft also addresses outfalls along the site. DOE hopes to get an answer to the recommendation of the separation process.

The site is still heightened level of security. Seaborg said he would look into getting some of the wildlife management area for recreational use.

The Core Team met and talked about the current dispute on the site management plan. DOE has requested an extension due to budget constraints. EPA and the State of Kentucky disagree with DOE about the milestones for FY 2003. The request for the extension was denied. The Core Team discussed the CERCLA Cell and the need to change the schedule to accommodate the scope. Regulators said they would allow an extension to August 2002. The board's Core Team notebook, containing copies of Core Team meeting minutes, has been updated.

Seaborg said he approved the release of isotope maps that include plutonium, technetium and neptunium. He expects to see uranium and thorium next. The maps had been requested by the Community Concerns Subcommittee.

The National Environmental Training Office budget is not funded through FY 2002.

Seaborg addressed Donham's question concerning a letter about BJC, one of its subcontractors, and NEPA values. Donham said he would like to have an update on this issue. Donham said that Bechtel Jacobs Company was reprimanded for not including NEPA values in the CERCLA Cell analysis. Seaborg said DOE reviews documents and will sometimes return documents, but does not know if he would use the word "reprimand". Donham asked if these documents were available to the public. Seaborg said he did not know the answer to this question and asked if this was something the board wanted to see. Donham said it is valuable to know the document exists. The board did not request a copy of this letter.

Board questions

Donham asked about the worst-case scenario and planning in case of a terrorist incident at the plant. He had heard that the site was listed on a top-ten terrorist target list. Seaborg said that DOE has been working with various agencies and that the Emergency Management Team meets to discuss these issues. In the case an emergency incident, the emergency response program would be activated using response protocols and public notification. Rhodes asked if the air space around the plant is restricted.

Seaborg said it was restricted after September 11 for several day but not now but that DOE is aware of flights in the area. He has not seen the top-ten list referred to by Donham. Tanner said he had talked to a former plant manager who had said there were no sources for the top-ten rumor. Russell added that a National Public Radio news program had addressed this and used Oak Ridge as an example of a generic target. Seaborg said the plant is reacting as would a nuclear facility.

Smart asked about the nickel ingots. Seaborg said they are part of the scrap yard project and are in indefinite storage. Long asked if families would be able to use the cemetery by the North-South Diversion Ditch. Seaborg said DOE would try to accommodate their needs.

Ex-Officio comments

There were no comments from ex-officios.

Public Comments

Rhodes wanted to know if the maps would be ready by the next board meeting. Young said they would be ready as soon as copies were made.

No comments from the public audience.

North-South Diversion Ditch Discussion

Tillson said the Waste Task Force is looking at where material will go after remediation of the North-South Diversion Ditch. One issue is the presence of some materials coming

from C-400. He passed out a matrix, including multiple scenarios concerning different wastes from various locations on-site.

For each scenario, he said the task force wants to ask what the RCRA classification of each waste stream and what the regulatory guidance would be for each. He said the task force had discussed going to an outside subcontractor to answer these questions, and is looking at two RCRA training companies as well as the federal and state EPA. The task force wants to see if it is within the budget to get independent professional advice. Tillson said the main issue is characterization. Donham asked if ditch was excavated and watershed not cleaned-up if the ditch could be contaminated again. Donham also asked if there was a map. Tanner said he has a map that shows the watershed. He said water will be blocked at the fence and the water inside fence will be treated. Tillson said this might not happen in a huge rain event. Dover said there are other outfalls, but water from the North-South Diversion Ditch will not flow out unless there is an unusually large storm.

Donham asked if there could be any impact from the State's attempt to regulate radioactive waste and whether the decision to use the landfill for soils outside the fence has been made. He added there has to be a three party agreement under CERCLA. Seaborg said the NSDD project is an environmental restoration project. The project will result in a combination of materials that are regulated as low-level radioactive waste and some material that contains chemicals. Although some may contain chemical components or radioactivity, they are not at levels to be regulated as low-level radioactive waste or hazardous waste by RCRA. DOE has agreed with the State and the EPA to do a risk evaluation to use the landfill as a disposal facility under CERCLA.

Tanner showed the board a map of the North-South Diversion Ditch. The project is divided into five phases, he said. The first two phases will include building a holding basin where the present retaining wall is and the ditch will be excavated and reconstructed. Some pipes also will be rerouted. The basin and pumps are designed for a 25-year storm event. Phase Three is the area north of the fence by the cemetery and is a small drainage area. Phases Four and Five will take place north of Ogden Landing Road, past the C-746-U-Landfill into Little Bayou Creek. Diversion ditches will be built on both sides of the existing NSDD. The existing ditch will be excavated and rebuilt. Workers then will get rid of the temporary ditches.

Donham asked if there would be diversion channels on both sides of the ditch during the project. Tanner said they would first put in the dam then build the basin. If sediment gets in, it would be controlled and treated. Donham asked if, when D&D is complete, there might have to be another treatment. Tanner said this is why the Surface Water Task Force wants a site-wide sediment control plan.

Tillson asked about the removal of the drainage basin on the outside of the fence -- part of preliminary plans -- and asked if it reflected the addition of the drainage basin on inside. Tanner said he did not think so. Smart said this is a restoration of the NSDD on the outside of the plant and asked if concrete and rock would cap the top. Dover said he thought workers would bring it back to soil. Tanner said there might be riprap and silt

checks occasionally.

Raper asked about the composition of the bottom of basin. Tanner said it would be made of two feet of clay. Tillson said a different kind of liner could be used, one which would be easier to remove if there was recontamination.

Donham asked about the worst contaminated area in the watershed that drains into the ditch. Dover said the ditch itself is the main source. There is still run-off but not through openly contaminated areas no longer releasing process water. Seaborg said a portion was hard piped ten years and that some process water does still flow.

Groundwater Operable Unit Task Force Report

The Groundwater Operable Unit Task Force did not meet in September.

Surface Water Operable Unit Task Force Report

The Surface Water Operable Unit Task Force did not meet in September. Tanner said they are planning to obtain more information for scrap metal recovery and the North-South Diversion Ditch.

Landfills/Waste Operations Task Force Report

Kemp said the task force met October 10 and had a teleconference with Taylor. They discussed UF-6 conversion and the M&I recommendation. She mentioned that, at one time the CAB was given copies of media reports and was concerned that many members of the board may not get any newspapers.

Donham discussed the M&I recommendation favored by the task force, noting that DOE has not released financial information he has sought because they weren't agency records based upon a clause in the M and I contract. Tillson said that Donham has tried to get the records and this clause in the contract had been cited for not releasing them. Donham said that if the contract says documents are government documents, you can request them pursuant to the FOIA. DOE then has to make a determination as to if this fits into an exemption. He said Section (b) of FOIA should take care of security and contractor concerns. The task force talked about having this in the next contract. The task force has decided to ask the board to make a formal recommendation that would remove that one non-standard clause from the next M and I contract.

Tanner said he did not think the recommendation would do any good and asked how it tied in with the board's scope of work. He said the CAB's job is to look at what DOE does and provide feedback, not to monitor its contracts. He asked Donham if the board had asked for this. Donham said at one time he tried to get copies of Kay's and DiG's contracts and this issue was discussed often. Tanner said he understands the confidentiality issues and said a summary of what the contracts call for would satisfy him. Rhodes said that this goes back to finding out how money is spent to determine what to request next time. He said he thinks this is only CAB that does not have full financial

disclosure. Halsey said that only Rocky Flats has any knowledge about budget expenditures. That is because they were formed prior to the initial SSAB charter and was allowed to contract their own services at that point. Rhodes asked if the exemption was written. Raper said Rocky Flats had their own standard operating procedures in place but is beginning to conform more with the way other SSABs work.

Kay clarified that there are two issues involved; the M&I contract, including how DOE does this from site to site, and the information about the budget for the board itself.

Halsey said she does not think the other sites have gone through a FOIA request. She does not know of other boards that get detail of how expenditures are utilized. She has talked to most other DOE coordinators and the information the Paducah board gets each month is more than many other boards. Jones asked if this was in the charter. Tillson said the issue is millions of tax dollars spent for cleanup

Russell said this is not a fact-finding mission to find fault, but to ensure the result of money spent produces environmental quality. He added that he board does not have oversight authority.

Kemp referenced the handout given by Froede at the last meeting concerning contracting and recommended the board read it. Kemp asked who has oversight of the board's budget. Seaborg said it goes through government channels. Tanner said that the mission was to look at courses of action and recommend ways to improve steps or speed the process. Raper said he looked at the CAB mission statement and believes this is out of the scope. Donham said that he thought it was because the charter said the board was to make "informed" recommendations and this information was important to be informed. Donham continued that if you read the preamble to FOIA it is in the public interest to know this information and by having this clause in contract, it allows documents that would be available to the public to not be available to the public. The government may use FOIA exemptions to withhold document dealing with confidential business information, privacy concerns, and classified and national security issues. If a member made a FOIA request, DOE would be obligated to contact Bechtel Jacobs or other contractor and say they are reviewing the document for confidential business information. The contractor could say they fall under exemption 6. DOE would make a decision and the company could file a reverse FOIA suit to block their release if they thought release would harm them. The time may come when the board needs to use this. Smart said if the recommendation is approved it is not binding. Long said this subject is out of the scope of the board. Kay said it appears the views of the board are split on this issue and suggested the task force rework the recommendation and bring it back to the board.

Donham talked about the PEIS teleconference and said there was good public turnout. There was some broken video feed, and the attendees ran out of time. He mentioned the PEIS teleconference handouts. Rhodes said DOE agreed to would hold a public meeting on the Draft PEIS locally in consideration of amounts of metals in Paducah.

Budget, Finance and Administration Report

Raper discussed the packet information on proposed guidelines for appointing a vice-chair. Smart wanted clarification on “excused absences.” Halsey said there are legitimate excuses to miss a meeting. The October meeting marks Duff’s third absence. Halsey said she would call Duff and find out if there is a legitimate reason for her absence. Based on this information, the board will have a reason if they take action. Halsey said within current operating procedures, two-thirds of the board has to be present. This proposal will have to be held until the next meeting.

Kemp said that the proposed change did not address staying for the whole meeting. Raper discussed other proposed changes to the bylaws. Donham asked what would happen if you only get one nominee.

Community Concerns Report

The committee did not meet. Rhodes said the committee will meet before the next CAB meeting.

Public Involvement Report

Members were asked to make suggestions on the draft of the CABfare in the folder. Gardner said that the CABfare could include an article to open the application period in December.

Membership

Halsey said she has spoken to Owens and would like to get names of Union members to take his place. Young has sent application forms to Owens. The membership group will look at these applications. Seaborg said DOE would prefer to have every slot in the board’s ideal membership matrix filled, but clarified that it was not required. Halsey said there could be appointments next month.

Review of Workplan

Kay reminded the board that the board does not meet in December and said in November there is still a placeholder for the C-746-U Landfill presentation. Seaborg said he was close to completing this project. Halsey said the proposed agenda included a presentation on the C-410 D&D. Kemp said the November calendar should reflect the 14th as the date for the Waste Task Force meeting.

Review of Agenda

Kay said time limits should be changed for two presentations. Seaborg said C-746-U is a placeholder if the board chooses to have it. Young said she has arranged a tour of the landfill for 3:00 p.m. for November 15.

Federal Coordinator Comments

Halsey said that there has been a change in action items. There are two sheets of items now; one is administrative and one is specific for the CAB. She asked members who are not now members of a task to consider joining one. She said she would like to obtain members for the Long Range Strategy Task Force, which looks at the Lifecycle Baseline, overall funding issues and other issues. Halsey said long-term funding goes out to 2010. Long-term stewardship also needs a place in the task forces. Donham said that citizens want long-term stewardship. Tanner said January would be a good time to make this task force active. Lambert and Kemp volunteered to serve on this task force.

Seaborg said a contractor list was included in the package and noted some errors. Hanford has an M&I contract and he will check to make certain if Rocky Flats and Savannah River do as well.

Kay said that it is time to plan an annual retreat. Young said Kenlake is a possible destination.

Kemp asked about providing the list of items for disposal in the C-746-U Landfill. Young said it has not yet been copied to the entire board, but that Tillson does have a copy.

Meeting adjourned.